



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

MAY 30 2018

Scott Rosmarin
Camp Rosmarin, Inc.
12 School Road
Monroe, New York 10950

Re: In the Matter of Camp Rosmarin, Inc.
Docket No. TSCA 02-2017-9282

Dear Mr. Rosmarin:

Enclosed herewith is a copy of the final Consent Agreement/Final Order ("CA/FO"), the settlement document for the above referenced case. I trust that you will find that these documents accurately reflect our agreement in this matter.

Please review and sign the final CA/FO and return it to my office, within five (5) days from date of receipt of this letter, for final signature by EPA and mailing.

Should you have any questions, please contact me at (212) 637-3230.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Melva J. Hayden", is written over a horizontal line.

Melva J. Hayden, Esquire
Assistant Regional Counsel Office of Regional Counsel
Water and General Law Branch/Waste and Toxic Substance Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

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In the Matter of	:	
	:	<u>CONSENT AGREEMENT</u>
Camp Rosmarin, Inc.	:	<u>AND</u>
	:	<u>FINAL ORDER</u>
Respondent.	:	
	:	Docket No.
	:	TSCA-02-2017-9282
	:	
Proceeding under Section 16(a) of	:	
the Toxic Substances Control Act	:	
-----X	:	

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), as amended, ("TSCA" or "the Act"). On June 26, 2017, Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA" or "Complainant"), issued a "Complaint and Notice of Opportunity for Hearing" ("Complaint") to Rosmarins Land Holdings, LLC ("RLH") and Camp Rosmarin, Inc. ("Camp Rosmarin" or "Respondents"). After issuance of the Complaint, the owner of Camp Rosmarin provided EPA with documents and a certified statement under penalty of perjury to support the assertion that RLH should not be a party in this matter. Specifically, Scott Rosmarin attested that RLH is only a real estate holding company that owns the land on which Camp Rosmarin is located; the structures which are the subject of this enforcement action are owned, maintained, and leased solely by Camp Rosmarin, Inc. On July 21, 2017, Camp Rosmarin submitted the first of several requests for an extension of time to file an Answer

to the Regional Judicial Officer. All such requests have been granted and, to date, no Answer has been filed nor is one overdue. On February 2, 2018, Complainant amended the Complaint to drop RLH as a Respondent. The amended Complaint names Camp Rosmarin as the sole respondent.

The amended Complaint alleges four counts against Respondent, as owner of target housing, for failure to ensure compliance with 40 C.F.R. §§ 745.113(b)(1), 745.113(b)(2), 745.113(b)(3), and 745.113(b)(4), during 2014, 2015, and 2016, by leasing summer residential cottages without providing tenants with: (1) a lead warning statement; (2) a statement disclosing any knowledge of lead-based paint; (3) a list of any existing records or reports pertaining to lead-based paint; and (4) an EPA-approved lead hazard information pamphlet. Respondent's failures or refusals to ensure compliance with the regulations cited constitute failures or refusals to comply with 40 C.F.R. § 745.113, which are violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d, and § 409 of TSCA, 15 U.S.C. § 2689.

This Consent Agreement and Final Order ("CA/FO") is being entered into by the parties pursuant to 40 C.F.R. § 22.18(b) following a series of settlement conferences. No formal findings of fact or conclusions of law have been made in or by an administrative or judicial tribunal. The following constitute EPA's findings of fact and conclusions of law as alleged in the complaint.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is incorporated under the laws of New York State.
2. Respondent's primary place of business is located at 12 School Road, Monroe, New York 10950.
3. Respondent owns the structures at 11 School Road, Monroe, NY and operates a summer camp and a summer residential colony at that address.
4. Among the structures at 11 School Road are 96 cottages used as summer residences.
5. The cottages at 11 School Road, Monroe, NY were built prior to 1978.

6. The cottages at 11 School Road, Monroe, NY are “target housing” as that term is defined by § 1004(27) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851b(27), and 40 C.F.R. § 745.103.

7. Respondent is the “owner” of target housing as that term is defined by 40 C.F.R. § 745.103.

8. In 2014, 2015, and 2016, Respondent leased cottages at 11 School Road, Monroe NY to summer residents.

9. The annual summer lease period to summer residents is from Memorial Day until the Sunday after Labor Day, a period of more than 100 days.

10. Respondent is a “lessor” of target housing as that term is defined by 40 C.F.R. § 745.103.

11. The summer leases are “transactions to sell or lease target housing” within the meaning of 40 C.F.R. § 745.101.

12. The summer leases are not exempt short-term leases within the meaning of 40 C.F.R. § 745.101.

13. Respondent is subject to the regulations and requirements pertaining to the Lead-Based Paint Disclosure Rule (“Disclosure Rule”) promulgated pursuant to 42 U.S.C. § 4852d, and set forth at 40 C.F.R. Part 745, Subpart F.

14. The Disclosure Rule regulations set forth at 40 C.F.R. Part 745, Subpart F require that the following information be provided to lessees before the lessees become obligated to lease target housing:

- a. a Lead Warning Statement;
- b. the presence of any known lead-based paint (“LBP”) and/or LBP hazards in the target housing being leased;

- c. any records or reports available to the lessor pertaining to LBP and/or LBP hazards in the target housing being leased; and
- d. an EPA-approved lead hazard information pamphlet.

15. Respondent leased target housing, the cottages at 11 School Road, without providing or ensuring the provision of the information required by the Disclosure Rule as set forth in paragraph 14 above.

16. Respondent's failures to comply with the Disclosure Rule constitute 54 separate violations of Section 409 of TSCA, 15 U.S.C. § 2689.

17. The parties held a series of pre-filing discussions regarding the allegations. As a result of these discussions, the parties agreed to enter into this Consent Agreement.

18. On October 5, 2017, and October 27, 2017, Respondent Camp Rosmarin submitted documentation regarding the operation of the summer residential colony at 11 School Road and financial information in support of its claimed inability to pay the penalty assessed in the Complaint.

CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall comply with, the following terms:

1. For the purposes of this Consent Agreement, Respondent: (a) admits the jurisdictional allegations of the complaint; and (b) neither admits nor denies the specific factual allegations contained in the Complaint, as amended.
2. Respondent shall hereinafter maintain compliance with all applicable statutory provisions of TSCA, 15 U.S.C. § 2601 et seq. and its implementing regulations.

3. Respondent certifies that it is currently in compliance with the statutory provisions of Subchapter IV of TSCA, 15 U.S.C. §§ 401 – 412, 15 U.S.C. §§ 2681 – 2692 and the implementing regulations codified at 40 C.F.R. Part 745.

4. Respondent certifies that EPA provided information and compliance assistance regarding the requirements set forth at 40 C.F.R. Part 745, Subpart E (the “Renovation, Repair and Painting (RRP) Rule”) and Subpart L (the “Abatement Rule”) in the event Respondent should perform renovations on the bungalow units.

5. Respondent further certifies that the financial information and other documentation it submitted to EPA on October 5, 2017 and October 27, 2017, is accurate, complete, and not misleading. Respondent understands that EPA has relied on the accuracy of the financial information and documentation submitted by Respondent during the negotiation of the settlement. Respondent is aware that the submission of false or misleading information or documentation to the United States government may subject a person to separate civil and/or criminal liability. Respondent understands that EPA retains the authority to seek and obtain appropriate relief if EPA obtains evidence that the information or documentation and/or representations made to EPA regarding Respondent’s finances is false or, in any material respect, inaccurate.

6. Respondent shall pay, by cashier’s or certified check or electronically by Fedwire, a civil penalty in the amount of **THREE THOUSAND DOLLARS (\$3,000), in accordance with the following schedule:**

- (a) One Thousand, Five Hundred Dollars (\$1,500) due on or before **30 calendar days** from the date of signature of the Final Order at the end of this document; and
- (b) One Thousand, Five Hundred Dollars (\$1,500) due on or before **60 calendar days** from the date of signature of the Final Order at the end of this document.

7. If a payment is made by cashier's or certified check, each such payment shall be payable to the "Treasurer of the United States of America." Each check shall be identified with a notation of the name and docket number of this case, as set forth in the caption on the first page of this document. Such check shall be mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000

Alternatively, if Respondent chooses to pay electronically by Fedwire, Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: **FRNYUS33, 33 Liberty Street, New York, NY 10045**
- 3) Account Code for Federal Reserve Bank of NY receiving payment: **68010727**
- 4) ABA number: **021030004**
- 5) Field Tag 4200 of the Fedwire message should read "**D68010727**
Environmental Protection Agency"
- 6) Name of Respondent: **Camp Rosmarin, Inc.**
- 7) Case Docket Number **TSCA-02-2017-9282**

8. Payment(s) must be received at the address listed in Paragraph 7, above, or the electronic Fedwire must be received by the Federal Reserve Bank of New York, on or before the due date(s) specified above (the date(s) by which such payment(s) must be received shall hereafter be referred to as the "due date(s)").

a. If Respondent fails to pay any of the installments required above, by its due date, Respondents shall also be liable to EPA for an additional stipulated penalty of \$500 for each such failure. All stipulated penalties for failure to pay a penalty installment on time are due and payable within thirty (30) calendar days of Respondents' receipt from EPA of a written demand for payment of the penalties. Payment of stipulated payments shall be made in the same manner as prescribed in Paragraph 9, below, for payment of the civil penalty installments. Stipulated penalties

shall accrue as provided above, regardless of whether EPA has notified Respondents of the violation or has made a demand for payment, but need only be paid upon demand. EPA, in its sole discretion, may reduce or eliminate any stipulated penalty due under this sub-paragraph.

b. Failure to pay the full amount of the penalty, or any stipulated penalty demanded by EPA, according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection or other appropriate action.

c. Further, if a payment is not received on or before its due date(s), interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date(s) through the date(s) of payment(s). In addition, a late payment handling charge of \$15 will be assessed for each 30-day period (or any portion thereof) following the due date(s) in which the balance remains unpaid.

d. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date(s). Any such non-payment penalty charge on the debt will accrue from the date(s) the penalty payment(s) becomes due and are not paid.

9. The civil penalties and any stipulated penalties provided for herein are “penalt[ies] within the meaning of 26 U.S.C. § 162(f), and are not deductible expenditures for purposes of federal or state law.

10. Any responses, documentation, and other communication submitted in connection with this Consent Agreement shall be sent to:

Demian Ellis
Regional Lead Coordinator
Pesticides and Toxic Substances Branch – Lead Team
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency – Region 2
2890 Woodbridge Avenue – MS 225
Edison, New Jersey 08837

And

Melva J. Hayden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

Unless the above-named EPA contacts are later advised otherwise in writing, EPA shall address any written future correspondence (including any correspondence related to payment of the penalty) to

Respondents at the following address:

Scott Rosmarin, Owner
Camp Rosmarin, Inc.
12 School Road
Monroe, New York 10950

11. This Consent Agreement is being voluntarily and knowingly entered into by the parties to resolve (conditional upon full payment of the civil penalty herein) the civil and administrative claims described in the Findings of Fact and Conclusions of Law set forth above.

12. Full payment of the penalty described in paragraph 6 (and any interest, late handling fees, or stipulated penalties) shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in the Complaint issued in this matter. Full payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of the law.

13. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms.

14. Respondent consents to the issuance of the accompanying Final Order.

15. Respondent agrees that all terms of settlement are set forth herein.

16. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

17. Respondent hereby waives its right to seek or to obtain any hearing pursuant to Subpart D of 40 C.F.R. Part 22 or other judicial proceeding on this Consent Agreement or on the Factual Allegations herein or on the accompanying Final Order.

18. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order.

19. Respondent waives any right it may have to appeal this Consent Agreement and the accompanying Final Order.

20. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

21. The signatory for Respondent certifies that he or she is duly and fully authorized to enter into this Consent Agreement and all the terms and conditions set forth in this Consent Agreement.

22. Each party hereto agrees to bear its own costs and fees in this matter.

23. Respondent consents to service upon it of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

In the Matter of Camp Rosmarin, Inc.
Docket Number TSCA-02-2017-9282

Camp Rosmarin, Inc.

RESPONDENT: BY: _____

NAME: _____
(PLEASE PRINT)

TITLE: _____

DATE: _____

COMPLAINANT:

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

DATE: _____

In the Matter of Camp Rosmarin, Inc.
Docket Number TSCA-02-2017-9282

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Camp Rosmarin, Inc. bearing Docket Number TSCA-02-2017-9282. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into, and issued as this Final Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk of EPA - Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615.

Helen Ferrara
Regional Judicial Officer
U.S. Environmental Protection Agency

DATE: _____